

EHR Modules, which would otherwise meet the definition of and constitute a Complete EHR (as defined in 45 CFR 170.102), and one or more of the constituent EHR Modules is/are demonstrably responsible for providing all of the privacy and security capabilities for the entire bundle of EHR Module(s); or

(2) An EHR Module is presented for testing and certification, and the presenter can demonstrate and provide documentation to the ONC-ATCB that a privacy and security certification criterion is inapplicable or that it would be technically infeasible for the EHR Module to be tested and certified in accordance with such certification criterion.

(d) *Inherited certified status.* An ONC-ATCB must accept requests for a newer version of a previously certified EHR Module or bundle of EHR Modules to inherit the previously certified EHR Module's or bundle of EHR Modules certified status without requiring the newer version to be retested and recertified.

(1) Before granting certified status to a newer version of a previously certified EHR Module or bundle of EHR Modules, an ONC-ATCB must review an attestation submitted by the developer of the EHR Module or presenter of the bundle of EHR Modules to determine whether the newer version has adversely affected any previously certified capabilities.

(2) An ONC-ATCB may grant certified status to a newer version of a previously certified EHR Module or bundle of EHR Modules if it determines that previously certified capabilities have not been adversely affected.

§ 170.455 Testing and certification to newer versions of certain standards.

(a) ONC-ATCBs may test and certify Complete EHRs and EHR Module to a newer version of certain identified minimum standards specified at subpart B of this part if the Secretary has accepted a newer version of an adopted minimum standard.

(b) Applicability of an accepted new version of an adopted minimum standard.

(1) ONC-ATCBs are not required to test and certify Complete EHRs and/or EHR Modules according to newer versions of an adopted minimum standard accepted by the Secretary until the incorporation by reference provision of the adopted version is updated in the FEDERAL REGISTER with a newer version.

(2) Certified EHR Technology may be upgraded to comply with newer versions of an adopted minimum standard accepted by the Secretary without adversely affecting the certification status of the Certified EHR Technology.

§ 170.457 Authorized testing and certification methods.

An ONC-ATCB must provide remote testing and certification for both development and deployment sites.

§ 170.460 Good standing as an ONC-ATCB.

An ONC-ATCB must maintain good standing by:

(a) Adhering to the Principles of Proper Conduct for ONC-ATCBs;

(b) Refraining from engaging in other types of inappropriate behavior, including an ONC-ATCB misrepresenting the scope of its authorization as well as an ONC-ATCB testing and certifying Complete EHRs and/or EHR Modules for which it does not have authorization; and

(c) Following all other applicable Federal and state laws.

§ 170.465 Revocation of authorized testing and certification body status.

(a) *Type-1 violations.* The National Coordinator may revoke an ONC-ATCB's status for committing a Type-1 violation. Type-1 violations include violations of law or temporary certification program policies that threaten or significantly undermine the integrity of the temporary certification program. These violations include, but are not limited to: False, fraudulent, or abusive activities that affect the temporary certification program, a program administered by HHS or any program administered by the Federal government.